

CAMMARANO LAW GROUP  
555 East Ocean Boulevard, Suite 501  
Long Beach, California 90802

Attorney Plaintiff,  
TOYS “R” US - DELAWARE, INC.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TOYS “R” US - DELAWARE, INC.	)	IN ADMIRALTY
	)	
Plaintiff,	)	Civil Action No.: 18-cv-11153
vs.	)	
	)	
MAERSK LINE A/S; and DOES 1	)	
through 10, inclusive,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT FOR DAMAGE TO CARGO; NEGLIGENCE;**

**BREACH OF CONTRACT**

Plaintiff TOYS “R” US - DELAWARE, INC. (hereafter “TRU”) alleges as follows:

**JURISDICTIONAL ALLEGATIONS**

1. This dispute involves an international, intermodal shipment of Cargo and thus, is a case in admiralty giving rise to the court's jurisdiction pursuant to 28 U.S.C. §1333(1) and Rule 9(h) of the Federal Rules of Civil Procedure, as hereinafter more fully appears.

2. The court has jurisdiction as a Federal Question under 28 U.S.C. § 1331, in that the dispute arises under federal law, namely, the United States Carriage of Goods by Sea Act (“COGSA”) 46 U.S.C. §30701 et. seq.

**GENERAL ALLEGATIONS**

3. At all times material herein, Plaintiff TRU was a Delaware corporation authorized to do in the State of New York, with an office and place of business at One Geoffrey Way, Wayne, New Jersey 07470. Plaintiff brings this action on its own behalf and on behalf of those having a financial interest in the cargo described below.

4. At all times material herein, Defendant MAERSK LINE A/S (hereinafter “MAERSK” or with Does, “Defendants”) is a corporation or other business entity organized and existing under the laws of Denmark with an office and place of business at 180 Park Avenue, Building 105, Florham Park, New Jersey 07932, and was and is engaged in business as an ocean common carrier in this judicial district.

5. Plaintiff has no knowledge of the true names and capacities of Defendants sued herein as Does 1 through 10 inclusive, except that Plaintiff is informed and believes, and on that basis alleges, the damage to the Cargo was proximately caused by Defendants’ wrongful acts. Plaintiff therefore sues these Defendants by such fictitious names and Plaintiff will amend this complaint to

allege their true names and capacities when ascertained.

6. Plaintiff is informed and believes, and on that basis alleges, that each of the Doe Defendants were at all times herein mentioned the agent, servant, employee or contractor of the other Defendants.

7. On or before September 19, 2017, Defendant MAERSK accepted a shipment consisting of 675 cartons of assorted toys (the “Cargo”) under MAERSK waybill number MAEU573405099 in container DAYU6106913 to be carried from Yanitan Port, Shenzen, China to Stockton, California via the Port of Oakland, California in the same good order and condition as when received.

8. Defendants, and each of them, failed and neglected to carry, handle, monitor and deliver the Cargo and maintain its good order and condition as when received. To the contrary, the Cargo was delivered with water, fire and smoke damage occurring while in the care, custody and/or control of Defendants or others performing on behalf of Defendants.

9. By reason of the foregoing, Plaintiff has been damaged in the sum of \$32,737.94, plus miscellaneous expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

**FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS**

**(Damage to Cargo)**

10. Plaintiff refers to paragraphs 1 through 9, inclusive, of this Complaint and incorporates them herein as if fully set forth.

11. Defendants, and each of them, failed and neglected to deliver the Cargo to its intended destination in the same good order and condition as when received. To the contrary, the cargo was delivered with water, fire and smoke damage, while in the care, custody and/or control of Defendants or others performing on behalf of Defendants.

12. By reason of the foregoing, plaintiff has been damaged in the amount of \$32,737.94, plus miscellaneous expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

**SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS**

**(Negligence)**

13. Plaintiff refers to paragraphs 1 through 12, inclusive, of this Complaint and incorporates them herein as if fully set forth.

14. The loss and damage to the Cargo was directly and proximately caused by the negligence and carelessness of Defendants and each of them and/or others acting on their behalf.

15. As a direct and proximate result of the negligence and carelessness of

Defendants or others whose conduct is imputed to Defendants, Plaintiff has been damaged in the amount of \$32,737.94, plus miscellaneous expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

**THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

**(Breach of Contract)**

16. Plaintiff refers to paragraphs 1 through 15, inclusive, of this complaint and incorporates them herein as though fully set forth.

19. Defendant MAERSK was engaged to move the Cargo from Yanitan Port, Shenzen, China to Stockton, California via the Port of Oakland, California. Such agreements obliged Defendant MAERSK to safely handle, store, count, transport, monitor and deliver the Cargo in the same good order and condition as when received.

20. Defendant MAERSK materially and substantially breached its agreement by failing to deliver the Cargo in the same good order and condition.

21. As a result of the material breach of contract by Defendant MAERSK, Plaintiff has been damaged in the amount of \$32,737.94, plus miscellaneous expenses, interest and costs, no part of which has been paid by Defendants despite demand therefor.

**PRAYER**

WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and

severally, as follows:

1. For general damages in the sum of \$32,737.94, plus miscellaneous expenses, interest and costs;
2. For costs of suit herein;
3. For such other and further relief as this court deems just and proper.

Dated: November 29, 2018

CAMMARANO LAW GROUP  
Attorneys for Plaintiff  
TOYS "R" US - DELAWARE, INC.

By: /s/ Dennis A. Cammarano  
Dennis A. Cammarano  
555 East Ocean Boulevard, Suite 501  
Long Beach, California 90802  
Telephone: (562) 495-9501  
Facsimile: (562) 495-3674  
E-mail: dcammarano@camlegal.com  
3442complaint112918.wpd